

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 9783 of 2004

Between:

G.Krishnaiah s/o. Narayanappa

R/o. H.No.6-731, Azadnagar, Ananthapur, District Anantapur.

..... PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C, Nandikotkur Depot
Kurnool District.

2 The Deputy Chief Traffic Manager, A.P.S.R.T.C. Kurnool
Region, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the Proceedings No.St/19(75)/2001-Dy.CTM Dt.10-4-2001 of the respondent and the proceedings No.S1/1(10)/93-NDK Dt.7.2-1994 of the 1st respondent as illegal, arbitrary, unjustified, unsustainable, contrary to law and violative of Article 14 of the constitution of India and set a side the same and consequently direct the respondents to add the two annual increments to the pay of the petitioner and pass.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondents: MR.Y.V.SWAMY

The Court Made the Following:

ORDER:

The first respondent issued a charge memo to the writ petitioner stating that he was absent to the duties unauthorisedly from 26.04.1993 to 31.05.1993 for which an explanation was submitted by the petitioner. Without considering the explanation of writ petitioner and without conducting any enquiry, the impugned proceedings No.E1/1(10)/93-NDK dated 07.02.1994 have been passed by the first respondent imposing a penalty of withholding annual increments for a period of two years with cumulative effect. Thereafter, the writ petitioner filed an appeal to the second respondent on 07.03.1994. As the second respondent did not pass any orders, the writ petitioner made another representation on 01.02.2001 and the same was dismissed as time barred. Hence, the writ petition.

The learned counsel for the petitioner contended that without conducting any departmental enquiry, the first respondent ordered stoppage and withholding of annual increments of the petitioner for a period of two years with cumulative effect, which is a major penalty and the same has not been considered by the second respondent. Therefore, he prays to modify the punishment imposed on him since the incident took place in the year 1993.

The learned standing counsel appearing for respondents opposed the same and submitted that there are

no grounds to interfere with the impugned proceedings. For the unauthorized absence of the petitioner to the duties from 26.04.1993 to 31.05.1993, an explanation was called for by the first respondent for which the writ petitioner gave an explanation. Admittedly, no enquiry was conducted.

It is not in dispute that withholding of annual increments for a period of two years with cumulative effect is a major penalty. So it is incumbent on the part of the respondents to conduct or hold an enquiry before imposing a major penalty. The incident in question took place in the year 1993 i.e., 11 years have been lapsed. Therefore, it is not desirable at this stage to remit the case back to the respondents-corporation for conducting fresh enquiry, even otherwise, the petitioner seeks for imposition of minor penalty.

Having regard to the peculiar facts and circumstances of the case, the punishment of major penalty imposed on the petitioner by the second respondent can be reduced to a minor penalty. Accordingly, the impugned proceedings are modified deferring one annual increment without any cumulative effect.

With the above modification, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

- 1 The Depot Manager, A.P.S.R.T.C, Nandikotkur Depot
Kurnool District.
- 2 The Deputy Chief Traffic Manager, A.P.S.R.T.C. Kurnool
Region, Kurnool District.
- 3 2 C.D. copies.